

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

GEORGIA-PACIFIC CONSUMER
PRODUCTS LP, a Delaware limited
partnership,

Plaintiff,

v.

LEE'S GENERAL TOYS, INC., a California
corporation, JOHN LEE, an individual, and
DOES 3-100,

Defendants.

Civil Action No. 07-CV-02391 JAH POR
**ORDER GRANTING JOINT MOTION
FOR LEAVE TO FILE SECOND
AMENDED COMPLAINT**

On December 20, 2007, Plaintiff Georgia-Pacific Consumer Products LP ("Georgia-Pacific") filed its complaint in this action. Dkt # 1. On February 15, 2008, Georgia-Pacific filed an unopposed motion for leave to file its First Amended Complaint. Dkt # 29. This motion was granted by order dated April 17, 2008. Dkt # 48. Rather than file a First Amended Complaint, the parties have jointly moved to permit Georgia-Pacific leave to file a Second Amended Complaint.

Pursuant to Federal Rule of Civil Procedure 15(a), leave to amend "shall be given freely when justice so requires." Fed. R. Civ. P. 15(a); *see also Morongo Band of Mission Indians v.*

1 *Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990). Furthermore, “[w]here there is lack of prejudice to
 2 the opposing party and the amended complaint is obviously not frivolous or made as a dilatory
 3 maneuver in bad faith, it is an abuse of discretion to deny such a motion.” *Hurn v. Retirement*
 4 *Fund Trust of Plumbing, Heating & Piping Indus.*, 648 F.2d 1252, 1254 (9th Cir. 1981); *see also*
 5 *Foman v. Davis*, 371 U.S. 178, 182 (1962) (“In the absence of [a] reason -- such as undue delay,
 6 bad faith or dilatory motive on the part of the movant, . . . undue prejudice to the opposing party
 7 by virtue of allowance of the amendment, futility of amendment, etc. -- the leave sought should,
 8 as the rules require, be ‘freely given.’”).

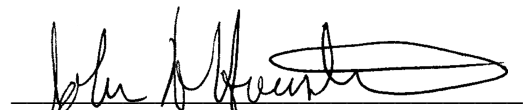
9 The Court finds that no prejudice to Defendants would result from Georgia-Pacific’s
 10 amendment of the complaint, and that there is no evidence that Georgia-Pacific’s motive in filing
 11 an amended complaint is dilatory. Accordingly, the Joint Motion for Leave to File a Second
 12 Amended Complaint is GRANTED.

13 IT IS HEREBY ORDERED as follows:

- 14 1. Georgia-Pacific shall be permitted to file its Second Amended Complaint, in the
 15 form attached to the Joint Motion for Leave to File a Second Amended Complaint at Exhibit 1.
- 16 2. Georgia-Pacific’s Second Amended Complaint shall be, and hereby is, deemed
 17 filed and served upon Defendants Lee’s General Toys and John Lee as of this date of this Order.

18
 19 **IT IS SO ORDERED.**

20
 21 DATED: June 26, 2008


 The Honorable John A. Houston
 UNITED STATES DISTRICT JUDGE